

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 CATHERINE LILLY,

8 Plaintiff(s),

9 v.

10 SYNCHRONY FINANCIAL,

11 Defendant(s).

Case No. 2:16-CV-2687 JCM (VCF)

ORDER

12
13 Presently before the court is the matter of *Lilly v. Synchrony Financial*, case number
14 2:16-cv-2687-JCM-VCF.

15 On April 7, 2017, Magistrate Judge Ferenbach granted the parties' motion to stay the
16 instant case. (ECF No. 19). A year later, on April 9, 2018, the court granted the parties'
17 stipulation to submit to binding arbitration. (ECF Nos. 20; 21). Since this court's order nearly
18 two years ago, this case stagnated. As a result, on February 24, 2020, the court ordered the
19 parties to file a stipulation to dismiss or a status report. (ECF No. 22).

20 Despite the court's most recent order, no party has appeared. No documents or motions
21 have been filed. The parties have not updated the court regarding the status of their binding
22 arbitration.

23 Federal Rule of Civil Procedure 41(b) provides that "[i]f the plaintiff fails to prosecute or
24 to comply with these rules or a court order, a defendant may move to dismiss the action or any
25 claim against it." Fed. R. Civ. P. 41(b). Although this rule only references dismissal upon
26 defendant's motion, the Supreme Court in *Link v. Wabash R. Co.* held as follows:

27 Neither the permissive language of the Rule—which merely
28 authorizes a motion by the defendant—nor its policy requires us to
conclude that it was the purpose of the Rule to abrogate the power

1 of courts, acting on their own initiative, to clear their calendars of
2 cases that have remained dormant because of the inaction or
3 dilatoriness of the parties seeking relief. The authority of a court
4 to dismiss *sua sponte* for lack of prosecution has generally been
5 considered an ‘inherent power,’ governed not by rule or statute but
6 by the control necessarily vested in courts to manage their own
7 affairs so as to achieve the orderly and expeditious disposition of
8 cases.

9 *Link v. Wabash R. Co.*, 370 U.S. 626, 630–31 (1962).

10 The Supreme Court specifically affirmed “the power of courts, acting on their own
11 initiative, to clear their calendars of cases that have remained dormant because of the inaction or
12 dilatoriness of the parties seeking relief.” *Id.* at 630. Thus, Rule 41(b) authorizes district courts
13 to sua sponte dismiss actions for failure to prosecute or to comply with court orders or the
14 Rules. *Pagtalunan v. Galaza*, 291 F.3d 639, 640–43 (9th Cir. 2002);

15 This power is also codified in this court’s local rules. Local Rule 41-1 provides that
16 “[a]ll civil actions that have been pending in this court for more than 270 days without any
17 proceeding of record having been taken may, after notice, be dismissed for want of prosecution
18 by the court sua sponte or on the motion of an attorney or pro se party.” LR 41-1.

19 Plaintiff has failed to prosecute her claim and failed to comply with the court’s order for a
20 stipulation dismissing this action in accordance with the parties’ binding arbitration or for a
21 status report.

22 Consequently, the court finds that dismissal is appropriate.

23 Accordingly,

24 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff’s complaint in
25 the matter of *Synchrony Financial*, case number 2:16-cv-2687-JCM-VCF, be, and the same
26 hereby is, DISMISSED.

27 The clerk is instructed to enter judgment and close the case accordingly,

28 DATED March 30, 2020.


UNITED STATES DISTRICT JUDGE